

Ser.no. 09/982,856
Amdt dated November 14, 2005
In Reply to Office Action dated May 31, 2005

REMARKS/ARGUMENTS

Claims 1 and 17 to 18 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 9 of US Patent No. 5,887,715 to Vasudeva ("Vasudeva '715") in view of US Patent No 5,803,254 to Vasudeva ("Vasudeva '254"). From a reading of MPEP and the Patent Laws, Applicant respectfully disagrees with the Examiner's position. In Section 804 of MPEP, the doctrine of double patenting is explained as "seeking to prevent the unjustified extension of a patent exclusivity beyond the term of a patent". This indicates that when dealing with double patenting, it is simply a review of the claims of the present application against one patent and not one in view of another as presently suggested by the Examiner. Furthermore at page 800-19 of MPEP, a listing of the instances where double patenting can be raised is listed which does not include the scenario where one issued patent is reviewed in view of a second US Patent. Applicant respectfully requests that the Examiner retract his incorrect double patenting rejection.

Claims 1, 4, 6 and 15 to 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,815,795 to Accumanno et al. ("Accumanno") in view of US Patent No. 4,892,367 to Jantzen ("Jantzen") and Vasudeva '254.

Applicant respectfully disagrees with the examiner's assessment that one would combine the teachings of Accumanno with the teachings of Vasudeva '254. Firstly, the nature of the bin retention means of Vasudeva are well-suited for small container units as there is not much pressure or weight applied on the bin retention means if the organizer is dropped. However, Applicant respectfully submits that this solution does not work for Accumanno which is quite robust and would require a more sturdy means for retaining the bins. Retraction of Examiner's rejection of original claims 1, 4, 6 and 15 to 18 is respectfully requested.

Claim 8 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Accumanno in view of US Patent No. 6,062,416 to Smillie ("Smillie"). Applicant respectfully submits that Smillie is quiet about the subject matter of the bin retention means which is not disclosed in Accumanno. Therefore, as claim 8 is dependent from claim 1, Applicant respectfully submits that claim 8 is also patentable. Retraction of Examiner's rejection of claim 8 is respectfully requested.

Claims 14 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Accumanno in view of US Patent No. 5,758,769 to Vasudeva "Vasudeva '769). Applicant respectfully submits that Vasudeva '769 is quiet about the subject matter of the bin retention means which is not disclosed in Accumanno. Therefore, as claim 14 is dependent from claim 1, Applicant respectfully submits that claim 14 is also patentable. Retraction of Examiner's rejection of claim 14 is respectfully requested.

Claims 1, 4 to 7 and 17 to 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,485,543 to Selden ("Selden") in view of Accumanno, Jantzen and Vasudeva '254. Applicant respectfully submits that none of the references, when read separately or together, disclose, suggest, teach or obviate the subject matter of the bin

Ser.no. 09/982,856
Amdt dated November 14, 2005
In Reply to Office Action dated May 31, 2005

retention means. Retraction of Examiner's rejection of claims 1, 4 to 7 and 17 to 18 is respectfully requested.

We look forward to further communication on this application.

By:


Jeffrey W. Wong
Registration No. 48,414
Attorney for Applicant

Borden Ladner Gervais LLP
100 Queen Street
Ottawa, Ontario
Canada K1P 1J9
Telephone: (519) 741-9100
Fax: (519) 741-9149
e-mail: jwong@blgcanada.com

IP-KIT-12393011